

**MARINE ADVISORY BOARD
THURSDAY, DECEMBER 7, 2006
CITY COMMISSION CONFERENCE ROOM – EIGHTH FLOOR
CITY HALL
100 NORTH ANDREWS AVENUE
FORT LAUDERDALE, FLORIDA**

BOARD MEMBERS PRESENT

**CUMULATIVE FROM 5/4/06
ATTENDANCE**

Randolph Adams	P-5	A-1
Alec Anderson	P-5	A-1
John Baker	P-5	A-1
David Bernier	P-4	A-2
Ryan Campbell	P-5	A-1
Bobby Dubose	P-4	A-0
Richard Duncan	P-4	A-2
Barry Flanigan	P-5	A-1
Alan Gabriel	P-4	A-0
Norbert McLaughlin	P-5	A-1
Rick Schulze	P-5	A-1
John Terrill, Chair	P-5	A-1
Stephen Tilbrook	P-3	A-3
Michael Widoff	P-5	A-1
Eugene Zorovich	P-5	A-1

Board Members Absent

John Baker and Eugene Zorovich were absent from tonight's meeting.

Staff Present

Jamie Hart, Supervisor of Marine Facilities
Jeff Modarelli, Director of Business Enterprises
Andrew Cuba, Manager of Marine Facilities
Sergeant Pallen, Marine Police
Margaret Muhl/Recording Secretary

Guests

Glen Bryant, B.K. Marine Construction, Inc.
David Nutter, B.K. Marine Construction, Inc.

CALL TO ORDER

Chair John Terrill called the meeting to order at approximately 7:00 p.m., roll call was taken, and a quorum was present.

APPROVAL OF MINUTES

Barry Flanigan stated that on page 10 it stated: "Mr. Flanigan raised the topic of visiting other states to solicit marine facilities for the boat show." He explained that the topic of conversation had been about the City's former traveling road show that went to various boating exhibits in an attempt to distribute brochures and advertise the City's marine facilities, and it had nothing to do with the boat show. He added that this topic was to be on tonight's agenda but that had not been included.

Chair John Terrill stated that the former traveling show had consisted of employees and other interested individuals who had attended various boat shows along the eastern seaboard learning how people were marketing their facilities, while promoting this City's facilities. This item was to be placed on tonight's agenda, and therefore, would be on the Board's next agenda for January, 2007.

Jamie Hart stated that he needed further direction and clarification from this Board regarding this matter. He added that they had not only visited shows along the eastern seaboard, but had attended ones in Canada and Chicago.

Barry Flanigan reiterated that they wanted to explore a partnership with the marine industry to promote the City's facilities through the resurrection of the road show once again. The issue of funding had also been raised and needed to be discussed further.

Jamie Hart stated that a report would be provided to the Board at their January, 2007 meeting.

Motion made by Richard Duncan and seconded by Ryan Campbell to approve the minutes of the November 2, 2006 meeting as corrected. Board unanimously approved.

WATERWAY CRIME & BOATING SAFETY REPORT

Sergeant. Pallen, Fort Lauderdale Marine Police, stated that only three minor burglaries had been committed during the month of November, which occurred out west, and individuals were now in custody and the stolen property had been recovered from various pawnshops. No accidents occurred except for the one previously discussed regarding the water taxi.

Ryan Campbell asked if there was anything this Board could do to assist the marine units in their work.

Sergeant Pallen stated there have been some budget constraints, and therefore, their marine unit consisted of 8 officers instead of 12. He explained that there had been some maintenance issues for the boats.

Randolph Adams stated that they had underused their grant this year due to not having adequate personnel. The question was whether they were being constricted by current policy to seek additional personnel because there were some unused funds available.

Sergeant Pallen explained that they did not have the necessary personnel to work on the grants.

Chair John Terrill asked if the Board wanted to place this item on their agenda for further discussion.

Richard Duncan stated that some police departments had civilians riding in their cars and he asked if that could be of help to the marine police. Sergeant Pallen stated that normally they only had one officer per boat, and were restricted in having civilians on board due to liability issues.

Randolph Adams asked if this Board needed to recommend to the City that additional personnel be made available to the marine patrols.

Sergeant Pallen explained that their department was budgeted for 12 positions which he believed was sufficient, but they needed to have the vacancies filled.

Barry Flanigan asked if the marine units were getting any new personnel. Sergeant Pallen stated that it was his understanding that the majority of the new hires were still being trained and once fully trained vacancies would be filled.

Jeff Modarelli, Director of Business Enterprises, stated that this Board could make a recommendation to the City Manager, but he did not believe it was in the purview of this Board to do so.

Stephen Tilbrook stated that he believed it was in the purview of this Board to make such a recommendation.

Jeff Modarelli explained that when this Board made recommendations it was to the City Commission, not to the City Manager. The Police Department falls under the direction of the City Manager.

Rick Schultz stated that the marine units are specialty units and not operational and possibly that designation should be changed to help in filling such vacancies.

Sergeant Pallen stated that they currently fell under the designation of operation support, including motorcycle, SWAT, marine and canine units. He further explained that specialty units were anything other than the patrol units and detective bureau. He was hopeful that the vacancies would be filled in the near future.

Ryan Campbell suggested that possibly some new equipment be purchased to assist the marine units in their patrolling of the waterways.

Motion made by Rick Schultz and seconded by Alan Gabriel to recommend to the City Commission that they consider filling the four vacancies in the marine unit in order to strengthen that unit. Board unanimously approved.

APPLICATION – DOCK WAIVER OF DISTANCE LIMITATIONS – 649 IDLEWYLD DRIVE

Jamie Hart stated that this was an application for replacement of a deteriorated and depleted wood pier and to provide dimensions for a proposed fixed pier with a floating dock extension and boatlift mooring facility including two dolphin pilings. The application was submitted by Alfred and Phyllis Thomas. He stated there was a shelf extending upwards at the site.

Jamie Hart proceeded to explain the distance of the proposed structure, along with the permitted distance without a waiver. He stated that the City's ULDR Section 47.19.3.B and C limited the maximum distance of the fixed/floating dock facility and boatlift at this specific location to be 20' and dolphin pilings not to exceed a maximum distance of 25', respectively. Section 47.19.3.D authorized the City Commission to waive that limitation based on a finding of extraordinary circumstance.

Jamie Hart advised that the property was located within the Idlewyld Isles RS-8 Residential Low Density Zoning District and was situated on the western shore of the Intracoastal Waterway where the overall average width between property lines from shoreline to shoreline was approximately 456.38' according to the survey information. The location from north to south to the center of the channel was approximately 210.22'. The width of the Intracoastal was 455.86'. The distance from the outermost dolphin piling to the western edge of the channel cut of the Intracoastal was approximately 107.29'. The closest distance of the fixed structures, including the proposed boatlift and floating pier to the western edge of the channel, were approximately 129.57' and 129.34', respectively.

Jamie Hart proceeded to show photographs of the proposed site and the elevations, along with photographs of docks and boatlifts previously approved in the area. He stated that there were no permits on record for the existing fixed dock extending 22.9'. He further explained that he had not received any objections from surrounding neighbors in connection with this application.

Jamie Hart stated that provided this Board approved the application and it was forwarded to the City Commission for resolution the following conditions were recommended:

1. The applicant is required to comply with all applicable building and zoning regulations as well as any other Federal and State laws and permitting requirements including specifically the Florida Department of Environmental protection and the U.S. Army Corps of Engineers in accordance with the ULDR Section 47.19.3.D.
2. The applicant is required to install and affix reflector tape to the existing dolphin pilings in accordance with Section 47.19.3.D of the Unified Land and Development Regulations.
3. The applicant is required to install a minimum of two guidepoles on the boatlift as specified in the Code of Ordinances, Section 8-91(c).

Norbert McLaughlin stated that he was not going to work on the proposed project, and therefore, did not have a conflict of interest.

Jamie Hart explained further that if this application for a waiver were not approved, the only alternative available would be to dredge the area. The cost analysis provided for dredging was \$61,350 which would take an additional 4-6 months to have done.

Steven Tilbrook asked if notice had been provided to the Idlewyld Civic Association. Jamie Hart confirmed. Steven Tilbrook asked if he could once again see the aerial photograph of the area involved. He asked if there was an existing house on the site. Jamie Hart advised that a house was presently being constructed. Steven Tilbrook stated the prior dock was smaller and asked what was the length of the proposed dock. Jamie Hart explained that the concrete portion was 53' and the floating dock portion extended another 11' and was 8' wide. Therefore, it would be 64' including the ramp area. Steven Tilbrook asked if a determination had been made that the dock would comply with the setback requirements. Jamie Hart stated that there were no limitations on the setback and the dock could be constructed to the property line, but a boat could not dock within the setback.

Norbert McLaughlin stated that this area was one huge sand bar. Barry Flanigan stated that at low tide individuals could not put their boats into the water in that area.

Mr. Tilbrook stated that such an application normally would have a hardship attached to it, and asked what was the hardship in this case other than a financial one. Jamie Hart stated that there was a difference between a waiver and a variance. A variance required a hardship, and a waiver did not.

Steven Tilbrook stated that the criteria in the waiver required extraordinary circumstances. Jamie Hart clarified the wording did not include hardship.

Mr. Glen Bryant with B.K. Marine Construction representing the applicant explained that the existing dock had been destroyed during a hurricane. A new house was being constructed and since the area was so shallow the dock needed to extend out, otherwise a boat could not be docked in the area. The hardship is that the property owner cannot house their boat on the site.

Steven Tilbrook asked what were the extraordinary circumstances in this case, and was there a need to have a 65' dock in order to have a lift. Mr. Bryant also explained that the area should have a separate code stating that all docks should be built beyond the 25' because of the circumstances present to the area. Most docks were beyond the 25' at this time. The hardship was that a dock had existed, it was destroyed, and now the property owner wanted to construct a new one that would be applicable for the area.

Steven Tilbrook asked if the proposed dock was larger than what had previously existed which had not been permitted. Mr. Bryant further stated the proposed dock was larger than what existed. Jamie Hart confirmed.

It was stated that waivers were granted in the area due to the extraordinary circumstances involved, and therefore, the owner should not be penalized and be granted the waiver.

Steven Tilbrook asked if a floating dock went beyond 20' was a waiver required. Jamie Hart stated that any type of dock that went beyond the 20' required a waiver.

Alan Gabriel stated that the Broward County Department of Planning and Environmental Protection had submitted a letter stating that dredging might require mitigation if seagrasses were found to exist, and therefore, they supported that a variance be granted. He believed that the size of the dock was a separate issue from the extension of the dock space.

It was asked if further information could be provided regarding the Federal review. Mr. David Nutter with B.K. Marine Construction stated when the Federal review was granted, the State DEP would be able to authorize permits for the Army Corps, otherwise they would have to issue their own permits. The Army Corps main concern was the distance from the channel and obstruction of vessel traffic.

Jamie Hart explained that staff did not make any recommendations regarding these applications, and that it was up to this Board to decide one way or the other.

Motion made by Barry Flanigan and seconded by Ryan Campbell to approve the application submitted for a waiver of limitations for 649 Idlewyld Drive per staff's conditions.

It was asked if the Coast Guard had submitted any comments on this application. The Coast Guard did not get involved in the process.

Steven Tilbrook stated he was concerned about the size and length of this dock, and he did not recall any docks extending as far as the proposed dock. He added that he was also concerned about views from the public right-of-way and the surrounding neighborhoods. Therefore, he was not convinced that extraordinary circumstances existed.

Alec Anderson asked how many such waivers had previously been granted. Jamie Hart stated that about six such waivers had been granted with the last being in January, 2005.

It was asked how large a dock could be built in that area without a waiver being granted. Jamie Hart stated that the dock could be the same size, but dredging would be necessary due to the shallowness of the site.

Michael Widoff stated that since waivers had been granted in the area, this would not be an unusual request or cause any concerns regarding the view.

Roll call showed: YEAS: Randolph Adams, David Bernier, Ryan Campbell, Bobby DuBose, Barry Flanigan, Alan Gabriel, Norbert McLaughlin, Rick Schultz, John Terrill,

and Michael Widoff. NAYS: Alec Anderson, Richard Duncan, and Steven Tilbrook. Motion to approve carried 10-3.

OLD/NEW BUSINESS

Traveling Road Show

Barry Flanigan asked if the Board's next agenda would list the item of the Road Show for discussion. Chair John Terrill confirmed.

Waiver Presentations

Richard Duncan asked when an application for a waiver came before this Board, why was the presentation not being made by the applicant. Jamie Hart stated that staff presented the application because they were better able to provide all the information to be considered and having the Board understand all requirements. He stated that the applicant could also make the presentation. Jamie Hart stated that it appeared easier for staff. Richard Duncan stated that he felt staff would not then have to use their time in making such presentations.

Chair John Terrill stated that he believed staff saved time by providing a summary of the information needed for the Board to make their determination.

Jeff Modarelli stated that when this Board made their recommendation to the Commission, it was necessary for them to have all information that was available. Staff provided a consistent approach and presentation, and then this Board could be consistent in their recommendations to the Commission.

Steven Tilbrook stated that he appreciated staff's time and effort, but typically the applicant should also make a presentation since staff did not comment on the criteria to be applied in the Board making their determination.

Alec Anderson stated that applicants should provide certain information when applying for waivers that might save staff time.

Steven Tilbrook stated that one thing about staff's presentation that was questionable was the other waiver sections because each waiver was to stand on their own circumstances. Staff appeared to be showing cases where precedent had been set, and he did not feel that was appropriate.

Michael Widoff stated that as a new Board member, he appreciated having information supplied regarding precedent because that helped him to understand the situation and make a determination.

Richard Duncan reiterated that each waiver application was to stand on its own.

Alan Gabriel stated that the fact of the matter was that they were discussing conditions for that area, and the other approvals indicated that there was a basis for the special

circumstances existing in that area. Secondly, whether the applicant made a presentation would not preclude the fact that staff also needed to make their presentation. All presentations made were a benefit to the Board in assisting them to make their determination.

Barry Flanigan agreed and stated that the applicant might not supply all necessary information. He reminded everyone that staff normally made presentations to other boards also and the boards relied on staff's experience and knowledge. He added that he believed it was the Board's decision, along with the Chair's, as to how presentations were to be made.

Chair John Terrill stated if the applicants just made a presentation two things could occur. First of all, individuals might feel they have an extraordinary circumstance but not know how to provide the information and then decide against doing so. It is a rich man's game and then staff might have to spend more time reviewing the information put together by the applicant's representatives or attorneys. He added that staff provided very valuable information based on their experience.

It was stated that specific guidelines could be created for the applicants to follow in submitting an application. It appeared that a balance was needed regarding presentations.

Norbert McLaughlin stated that this City was changing regarding the sizes of boats and larger vessels were becoming more common. Therefore, larger docks would be needed and many of the older docks were built a long time ago and needed replaced.

Quality of Water Standards

Chair John Terrill stated that the County Commission had recently voted against lowering the quality of water standards.

Lauderdale Marine Center

The Lauderdale Marine Center had been approved by the Planning and Zoning Board and one condition was that it was to be a clean marina. He believed the City needed to follow those same conditions being placed upon private industry. He suggested that the City be more proactive in those issues.

Jeff Modarelli stated that the City was pursuing this matter more proactively.

Steven Tilbrook asked if a presentation could be made in regard to clean marina status, along with the costs involved for such a designation. Jamie Hart stated that staff would make a presentation once all information was obtained, along with available materials.

Chair John Terrill advised that more information would be provided at the Board's January, 2007 meeting.

Motion made by Steven Tilbrook and seconded by Randolph Adams that a presentation be made by staff explaining the clean marina program at the Board's next meeting. Board unanimously approved.

NATURAL GAS PIPELINE PROPOSAL

Mr. McLaughlin spoke of a meeting that he had attended the previous evening which was an informal public meeting with the U.S. Coast Guard, Calypso and Liquid National Gas that was presented where the proposed dockage was supposed to be, roughly 8 miles off the coast and south of Atlantic Avenue. He advised that several speakers were there and that some were in favor and some were against the proposal to make a 10' x 10' pole underneath the reef, coming in to Port Everglades and continuing 6 miles inland to where the natural gas transmission line was by 441. He advised that he had voiced an objection at the meeting stating that the Fort Lauderdale Marine Advisory Board had not been advised of this meeting. He stated that the permitting process had already started and wanted the Board to be aware of this issue.

Mr. Flanigan commented that as larger homes were being built where smaller homes used to be the Board had to consider the fact that larger docks would eventually be needed.

Mr. Anderson agreed with Mr. Flanigan's previous point. He stated that he was appointed by Commissioner Rodstrom whose platform was based on the goal to curb excessive growth. He felt that he needed to keep this in mind when voting on issues.

Mr. Tilbrook stated he had no problem with large boats but did not want "extraordinary circumstances" to be applied simply because residents wanted larger boats.

REPORTS

- **Canal Cleaning/Request for Proposals (RFP)**

Mr. Hart stated that not much had changed and that the bulk of the money was going toward a prototype system to clean stormwater systems along the New River. He stated he would try to have Chris McFadden address the Board further on this item in February, or March 2007.

Mr. McLaughlin advised the cleanup operation had gone from Davie Boulevard to the lower part of Fort Lauderdale. He stated that well point water was discharged into the New River stormwater system. He stated that a large quantity of silt was going into the New River.

- **Broward County Marine Advisory Committee**

Mr. Adams advised that the recent meeting had not been held due to lack of quorum; however, a workshop was held instead. He stated that because of a recent ruling from the state, funds that were available for the floating dock project had been taken away and therefore this was now considered a dead project.

Mr. Hart advised that the state had other options.

Chair Terrill requested that the floating dock project be placed on the next meeting's agenda.

VII. ADJOURNMENT

There being no further business to come before this Committee, the meeting was adjourned at 9:02 p.m.

Respectfully submitted,

Margaret A. Muhl,
Recording Secretary